

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1430 OF 2024**

**DISTRICT :- JALGAON**

**Smt. Sanghmitra Uttamrao Bawiskar,** )  
Age:- 49 Years, Occ. Service as Naib )  
Tahsildar (Revenue) Chalisgaon, )  
R/o:- Tahsil Office Chalisgaon, )  
Tq. Chalisgaon, District Jalgaon. )... **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through its Principal Secretary, )  
Revenue and Forest Department, )  
Mantralaya Mumbai-400032. )
- 2. The Additional Commissioner,** )  
Nashik Division, Nashik )
- 3. The Collector, Jalgaon,** )  
District Jalgaon. )... **RESPONDENTS**

**APPEARANCE :** Shri S.R. Barlinge, learned counsel for  
the applicant.

**:** Shri D.M. Hange, learned Presenting  
Officer for the respondent authorities.

**CORAM : SHRI A.N. KARMARKAR, MEMBER (J)**

**RESERVED ON : 24.03.2025.**

**PRONOUNCED ON : 01.04.2025.**

**O R D E R**

By filing this Original Application, the applicant has  
prayed for setting aside the impugned order dated 29.09.2024  
issued by respondent No.2, thereby the applicant was transferred

from the post of Naib Tahsildar, Dist. Nashik to the post of Resident Naib Tahsildar, Tahsil Office Chalisgaon, District Jalgaon. She has also prayed for direction to the respondents to re-transfer the applicant to earlier post.

2. Earlier the applicant was transferred from the post of Naib Tahsildar, Dindori to the post of Naib Tahsildar, Nashik vide order dated 25.05.2023. Though the applicant has joined at Chalisgaon, she was required to wait as one Mr. Prathmesh Gajanan Mohad was transferred at that place. So the applicant had made representation to cancel her transfer. This applicant has not completed her tenure of three years. Her son is studying in 12<sup>th</sup> Standard. Impugned order is challenged on the ground that certain procedure is required to be followed for mid-term transfer of the applicant. But the respondent had not followed the procedure.

3. The respondent No. 2 has filed affidavit in reply (page No. 21). According to this respondent, in view of guidelines of Election Commission of India (in short 'E.C.I.') dated 31.12.2023, the applicant was transferred for conducting free, fair and transparent Election process, as the post from which the applicant was transferred is notified post as per the notification

of E.C.I. So the impugned order of transfer is on administrative ground. It is contended that there is no provision or guideline issued by E.C.I. relating to re-transfer of employee who is transferred for the purpose of election. This applicant and other six were transferred by the impugned order and they are ex-party relieved. As per the impugned order, the respondent No.2 has not only transferred the present applicant but also other six similar situated officers on the notified post as directed in E.C.I. notification dated 31.07.2024 are transferred. Necessary procedure is followed. There are recommendations of Civil Services Board dated 28.09.2024 and approval is given by the Competent Authority. There is no mala-fide intention to transfer the applicant.

4. The applicant has not filed any rejoinder affidavit.

5. I have heard Shri S.R. Barlinge, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondents. Both the parties have submitted as per their respective contentions.

6. According to learned counsel for the applicant, the tenure of the present applicant is not over and she is transferred just within 15 months. The applicant has challenged the

impugned order only on the ground that though she has not completed her tenure, she was transferred without adopting necessary procedure. The applicant was transferred from the post of Naib Tahsildar, Dindori to the post of Naib Tahsildar, Nashik as per order dated 25.05.2023. So it appears that she has served for 15 months at Nahsik. She has submitted that one of the employee, who was transferred along with the present applicant vide impugned order dated 29.09.2024 had filed O.A. No. 1210/2024 before this Tribunal. The said O.A. was allowed. According to him, in para No. 14 of the said judgment, it is discussed that the reason of election is also not sustainable and the applicant does not fall in those guidelines. The case of the present applicant is not covered under Section 4(4)(ii) and 4(5) of the Transfer Act, 2005.

On the other hand, learned Presenting Officer has submitted that the impugned order of transfer was passed under Section 4(4)(ii) of the Transfer Act, 2005. According to him, the present applicant was transferred on the cause of free, fair and transparent Election process, as the post from which the applicant was transferred is notified post according to the notification of Election Commission of India.

This fact is not disputed by the applicant by filing rejoinder affidavit. Secondly the applicant has referred her representation dated 14.08.2024 (page No. 20 of paper book) for cancelation of her transfer. She has contended in the said letter by referring the notification of Election Commission of India dated 22.11.2021. She has contended that as per the letter of Chief Election Officer, Maharashtra State she is likely to be transferred. She has not taken the decision regarding registration of voters. She has just worked as Additional Assistant Voters Registration Officer. So she tried to suggest that she was not connected with the elections. The contention shows that she was connected with the job of registration of voters.

7. In response to the contentions of the applicant about not following the procedure before the impugned order, the respondents have stated that on the basis of recommendation of Civil Services Board dated 28.09.2024 they have transferred the present applicant along with the similarly situated employees. Learned Presenting Officer has also invited my attention to the minutes of Civil Services Board meeting by placing it on record, which shows the grounds for transfer of the present applicant. According to learned Presenting Officer, the applicant cannot be reposted as contended in the present Original Application in view

of the recent judgment of Hon'ble High Court of Bombay in a case of **the State of Maharashtra and Ors. Vs. Pramila Vitthal Kawale & Others in W.P. No. 11740/2024 and other connected W.Ps.**

8. The applicant has prayed for retransfer her on earlier post. According to respondents, there is no provision for retransfer on the earlier post. The applicant has contended in her representation dated 14.08.2024 (page No. 20 of paper book) that after election procedure is over, she again may be transferred. The impugned order shows that there is reference of communication of Election Commission of India, letter of Revenue and Forest Department, Transfer Act, 2005 and minutes of Civil Services Board meeting. This order shows that the powers were given to the Divisional Commissioner for transfer of the officers, who were working on the post of Naib Tahsildar in view of the Notification of Election Commission of India. The respondents have also mentioned the said fact in para No. 9 of their affidavit in reply. The minutes of Civil Services Board also shows that as per the letter of Election Commission of India dated 31.07.2024, it is necessary to transfer the officers, who are working on the post of Assistant Election Returning Officer (AERO). So the approval is given by the

competent authority for transfer of such officer considering the Assembly Election 2024. The Civil Services Board seems to have taken into consideration the criteria as fixed by the Election Commission of India regarding officers, who are to be transfer and other details etc. The impugned order shows that the powers are given to the Divisional Commissioner for approval to the recommendation regarding transfer of the officers working on the post of Naib Tahsildar. So it is apparent that the respondents have adopted the necessary procedure for mid-term transfer of the present applicant. It is clear from the impugned order and minuets of Civil Services Board meeting that the impugned order was passed due to administrative exigencies and public interest and also for free, fair and transparent Election.

9. The applicant has also prayed for direction to re-transfer her at Nashik. According to learned counsel for the applicant, the said earlier post of applicant is still vacant. In connected matter O.A. No. 1278/2024 one of the grounds was that O.As. were filed before Principal Seat of this Tribunal at Mumbai and vide order dated 19.07.2024 allowed those O.As. According to the said applicant, the Tribunal has directed the authority concerned to reconsider the transfer made at the time of Parliamentary Election. On that basis the applicant has

prayed for his retransfer at earlier place. It appears that the said order dated 19.07.2024 was challenged before the Hon'ble High Court of Bombay in W.P. No. 11740/2024 along with other W.Ps. Learned P.O. has also relied on this judgment during his arguments. In the said matter, the order of Tribunal dated 19.07.2024 is quashed and set aside. It is necessary to reproduce para No. 10 of the said judgment, which is as under :-

*“10] Perusal of the minutes of the PEB dated 25/02/2024 indicates that reference has been made to the Circular dated 21/12/2023 issued by the ECI as well as the communication dated 22/02/2024 issued by the State Election Commission. On that basis requisite information from the concerned superior police authorities was called. After considering the Circular dated 21/12/2023 and communication dated 22/02/2024 referred to above, the power conferred by Section 22-N(2) of the Act of 1951 was invoked and seventy three officers came to be transferred. Since the transfers in question have been effected only in view of the directives of the ECI, it cannot be said that there is absence of any public interest or absence of any exceptional case in transferring the concerned officers. The Circular dated 21/12/2023 issued by the ECI being binding on the State Government, it cannot be said that the PEB by transferring the concerned officers after taking recourse to the said Circular was not entitled to do so. Once it is found that the directives of the ECI were binding on the State Government, steps taken to comply with the same in public interest would be sufficient to invoke the power conferred by Section 22-N(2) of the Act of 1951 and effect*



*transfers accordingly. On that count we do not find that any fault can be found with the orders of transfer.”*

In view of this fact and observations of the Hon'ble High Court in the above referred judgment, it can be said that the transfer of the applicant was effected in view of the directions of Election Commission of India and it cannot be said that there was absence of public interest or absence of administrative exigency. Secondly, the impugned order does not indicate that it was to remain in effect only till such time the elections were to conclude. So this order of transfer has to be treated as order of mid-term transfer not limited for any particular period.

10. Learned counsel for the applicant has also referred the judgment of this Tribunal in O.A. No. 1210/2024 of this Tribunal. According to learned counsel for applicant, applicant in that matter was also transferred along with the present applicant. The said judgment does not reveal any reference of placing on record the copy of minutes of Civil Services Board meeting. In that matter it was discussed that Government has come with a stand that the transfer of that applicant was not restricted to the purpose of election. Even it was submitted by learned counsel for the applicant in that matter that initial proposal dated 27.09.2024 sent by the State Government

regarding the transfer does not bear the name of applicant as proposed transferee. The applicant's ensuing retirement in proximity in that matter was also considered by the Tribunal. Hence, the said judgment cannot be said to be of much help to the applicant.

11. In view of the discussions in foregoing paragraphs, the present Original Application deserves to be dismissed. Hence, the following order :-

**ORDER**

The Original Application stands dismissed. There shall be no order as to costs.

**(A.N. Karmarkar)**  
**Member (J)**

**PLACE : Aurangabad**  
**DATE : 01.04.2025**

**KPB** S.B. O.A. No. 1430 of 2024 ANK Transfer